

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1, 2, 5-7, 13-16 and 19-29 are pending in the application, with claims 1, 14, 19, and 26 being the independent claims. Claim 4 is sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Claims 1, 5, 14, 19, 26, and 28 are sought to be amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Claim Objections

Paragraph 3 of the Office Action objects to claims 1, 19, and 26 because the claims have indefinite subject matter in the preambles. Claims 1, 19, 26, and 28 have been amended to remove the phrase "can be" in accordance with the Examiner's suggestion. Accordingly, Applicants respectfully request the Examiner reconsider and withdraw the objection.

Rejections under 35 U.S.C. § 102

Paragraph 5 of the Office Action rejects claims 1, 2, and 13 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,907,062 to Carlson ("Carlson 1"). For at least the following reasons, Applicants respectfully request the Examiner reconsider and withdraw the rejection.

Without acquiescing to the propriety of the rejection, claim 1 has been amended to incorporate the features of canceled claim 4, which the Examiner identified as containing allowable subject matter in paragraph 20 of the Office Action. Consequently, Applicants respectfully assert amended claim 1 overcomes Carlson 1.

Accordingly, Applicants respectfully request the Examiner reconsider and withdraw the rejection of claim 1, and its dependent claims 2 and 13, set forth in paragraph 5 of the Office Action.

Rejections under 35 U.S.C. § 103

Paragraph 10 of the Office Action rejects claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Carlson 1 in view of U.S. Patent Publication No. 2001/0036274 to Antoine ("Antoine"). For at least the following reasons, Applicants respectfully request the Examiner reconsider and withdraw the rejection.

As explained above, independent claim 1 overcomes Carlson 1. Claim 6 depends from claim 1. Applicants respectfully assert Antoine fails to remedy the deficiencies of Carlson 1 with respect to claim 1. Therefore, Applicants respectfully submit claim 6 is patentable under 35 U.S.C. § 103(a) over Carlson 1 in view of Antoine. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claim 6 set forth in paragraph 10 of the Office Action.

Paragraph 12 of the Office Action rejects claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Carlson 1 in view of U.S. Patent Publication No. 2003/0012272

to Carlson ("Carlson 2"). For at least the following reasons, Applicants respectfully request the Examiner reconsider and withdraw the rejection.

As explained above, independent claim 1 overcomes Carlson 1. Claim 7 depends from claim 1. Applicants respectfully assert Carlson 2 fails to remedy the deficiencies of Carlson 1 with respect to claim 1. Therefore, Applicants respectfully submit claim 7 is patentable under 35 U.S.C. § 103(a) over Carlson 1 in view of Carlson 2. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claim 7 set forth in paragraph 12 of the Office Action.

Paragraph 15 of the Office Action rejects claims 14-16 under 35 U.S.C. § 103(a) as being unpatentable over Antoine in view of Carlson 1. For at least the following reasons, Applicants respectfully request the Examiner reconsider and withdraw the rejection.

Claim 14 recites, in part, "selecting parameter data based on an association of the selected parameter data with a reasonable peak-to-average (PAR) ratio for a sequence of Medley symbols according to at least one of a number of used tones and a number of upstream and downstream carriers of an ADSL modem." Applicants respectfully submit that neither Antoine nor Carlson 1, whether taken alone or in combination, teach or suggest the above recited feature of claim 14. At the very least, neither Antoine nor Carlson 1 describe selecting parameter data "according to at least one of a number of used tones and a number of upstream and downstream carriers of an ADSL modem," as recited in claim 14. Consequently, Applicants respectfully assert that neither Antoine

nor Carlson 1, whether taken alone or in combination, teach or suggest the features of claim 14.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claim 14, and its dependent claims 15-16, set forth in paragraph 15 of the Office Action.

Allowable Subject Matter

Applicants wish to thank the Examiner for identifying claims 4, 5, and 19-29 as containing allowable subject matter.

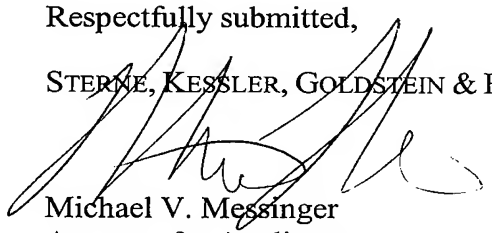
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


Michael V. Messinger
Attorney for Applicants
Registration No. 37,575

Date: July 11, 2008

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600